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In re Application of :
Yoshiharu Omura : DECISION ON PETITION
Application No. 10/038,278 :
Filed: January 4, 2002 :
Attorney Docket No. 771,057 :

This is a decision on the petition filed on March 12, 2004 by which petitioner requests withdrawal of the technical state of abandonment that exists as a result of the apparent failure to file a reply to the Office letter dated August 29, 2003. The petition is considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

Petitioner alleges that this application is not abandoned because petitioner did in fact file a timely reply following to the Office letter in question. Petitioner supports this allegation by submitting a copy of the reply and a copy of a post card receipt for the reply showing that the reply was in fact received in the Office on December 3, 2003. However, the reply was filed with a 37 CFR 1.8(a) certificate of mailing dated December 1, 2003 affixed thereto. December 1, 2003, a Monday, is within the period set for filing a reply to the Office letter in question. Therefore, it is clear that this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Head Supervisory Applications Examiner for entry of the reply attached to the petition with a "mail date" of December 3, 2003 and a "certificate of mailing date" of December 1, 2003. Thereafter, the application will be forwarded to examiner for action.

PETITION GRANTED.

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